

REPRESENTATIVE FOR PETITIONER:
Billy Dobbins

REPRESENTATIVE FOR RESPONDENT:
Peggy Hendron, Deputy Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

B & P Dobbins Trust w/ Life Estate,)	Petition No.: 64-028-17-1-5-00854-18
)	
Petitioner,)	Parcel No.: 64-11-11-176-010.000-028
)	
v.)	County: Porter
)	
Porter County Assessor,)	Assessment Year: 2017
)	
Respondent.)	

March 4, 2019

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

PROCEDURAL HISTORY

1. Dobbins contested the 2017 assessment of his property located at 126 Wenatchee Place, Hebron. The Porter County Assessor assessed the property at \$244,000 (\$47,200 for land and \$196,800 for improvements). Dobbins elected to appeal his 2017 assessment directly to the Board after the Porter County Property Tax Assessment Board of Appeals (“PTABOA”) failed to issue a determination within 180 days of Dobbins filing his notice

of appeal. *See* Ind. Code § 6-1.1-15-1.2(k) (allowing taxpayers to appeal to the Board if the county board has not issued a determination within 180 days of the date the notice of appeal was filed).

2. On December 13, 2018, our designated administrative law judge, Ellen Yuhan (“ALJ”), held the hearing on Dobbins’ appeal. Neither she nor the Board inspected the property.
3. Billy Dobbins and Peggy Hendron testified under oath.
4. Dobbins submitted the following exhibit:
Petitioner Exhibit A: Form 131 petition and attachments
5. The Assessor submitted the following exhibits:
Respondent Exhibit 1: 2017 property record card for Dobbins’ property
Respondent Exhibit 2: Photo of Dobbins’ property
Respondent Exhibit 3: Two pictometry aerials of Dobbins’ property
Respondent Exhibit 4: Chart of 2016 sales in neighborhood 2816 and corresponding sales disclosure forms
Respondent Exhibit 5: Sales comparison analysis
Respondent Exhibit 6: Property record card, picture, and aerial for 149 Springwood
Respondent Exhibit 7: Property record card, picture, and aerial for 283 S. Cobble Lane
Respondent Exhibit 8: Property record card, picture, and aerial for 289 Seasons View Court
6. The record also includes the following: (1) all pleadings, motions, briefs, and documents filed in this appeal; (2) all orders and notices issued by the Board or our ALJ; and (3) an audio recording of the hearing.

BURDEN OF PROOF

7. Generally, a taxpayer seeking review of an assessing official’s determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the

assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2(b), (d).

8. Here, Dobbins' assessment went from \$189,800 in 2016 to \$244,000 in 2017, an increase of 28.5%. The Assessor agreed that he therefore bears the burden of proof.

OBJECTIONS

9. Dobbins objected to the admission of all of the Assessor's exhibits, but he failed to provide any legal basis for his objection. We therefore admit them.

THE ASSESSOR'S CONTENTIONS

10. Dobbins has appealed numerous years going back to 2007. Over that time, the Assessor has made several changes to the property's grade and has applied varying obsolescence adjustments. The Assessor has also removed a non-existent fireplace from the assessment. The property's assessment was \$190,000 from 2012 through 2015. And the Board issued a determination upholding the 2016 assessment of \$189,800. For 2017, there was a new land order, updated cost tables, and a new location cost multiplier used to assess properties with previous adjustments resulting from appeals, which included Dobbins' property. That is why his 2017 assessment increased to \$244,000. *Hendron testimony; Resp't Ex. 1.*
11. Dobbins claims that nothing about his property has really changed since his 2016 appeal, but the Assessor's values are based on what is going on in the market. Dobbins has not presented any evidence such as bids, quotes, or estimates from contractors to support his contentions regarding needed repairs, just a hand-written list. Nor has he provided the Assessor with any pictures of the interior of his home. It is therefore very hard for the Assessor to value his home differently from the sales that are available. Further, many of the repairs he claims are needed are considered ordinary expenses associated with the

regular maintenance of an aging property. And the costs for pumping out the septic tank and replacing the well water tanks are all part of normal maintenance for homes in rural areas. *Hendron testimony.*

12. Dobbins also contends his house is assessed as a new home, but the Assessor applied 16% depreciation to the house based on its effective age of 17. The exterior of Dobbins' house is well-maintained, and he has taken great care in planting trees and in maintaining a beautiful lot. As a result, there is a large difference between the curb appeal of Dobbins' property and the comparable sales. *Hendron testimony; Resp't Exs. 1-3.*

13. Dobbins provided pictures of homes in his subdivision to show that other owners do not take care of their properties. He claims that their lack of care decreases the value of his property. The Assessor found eight sales in Neighborhood 2816, of which five were in Dobbins' subdivision. He considered one of those five sales to be invalid because it was the result of a divorce and the parties failed to disclose its sales price on the sales disclosure form. The four remaining sales ranged from \$314,000 to \$379,000. Three of those properties sold for more than their assessed values, so they do not appear to be affected by the same issues that Dobbins claims affect his property. *Hendron testimony; Resp't Ex. 4.*

14. The Assessor prepared a sales comparison analysis using three ranch-style homes from Dobbins' neighborhood:
 - Comparable 1 (149 Springwood Drive) sold for \$330,000 (\$155.15/SF) in May 2016.
 - Comparable 2 (283 S. Cobble Lane) sold for \$289,000 (\$152.51/SF) in June 2016.
 - Comparable 3 (289 Seasons View Court) sold for \$233,500 (\$128.09/SF) in September 2016.

He made adjustments for differences in lot size, above grade area, basement area and finish, garage size, plumbing fixtures, fireplaces, exterior features, grade, age, and yard items. Dobbins' house is currently graded as C+1 and the three comparable sales are

graded as C+2. However, Dobbins' house could be graded higher "because Comparable 3 is more like a modular home and really doesn't compare to Mr. Dobbins'..." *Hendron testimony; Resp't Exs. 5-8.*

15. The adjusted sale prices of the Assessor's comparable sales ranged from \$115.75/SF to \$138.76/SF. And their median sale price is close to Comparable 2's adjusted price. Comparable 2 is the property most similar to Dobbins' house in terms of square footage. They have the same size garage, and are similar in age and style as well. However, the exterior of Dobbins' house is all brick. Because of the similarities, the Assessor used Comparable 2's adjusted price of \$127.60/SF. Applying that value to the above-grade area of Dobbins' house (1,741 square feet), results in a recommended value for 2017 of \$222,200 (rounded). *Hendron testimony; Resp't Ex. 5.*

DOBBINS' CONTENTIONS

16. Dobbins contends the property is 18 years old and needs approximately \$75,000 in repairs and upgrades. The quality of his yard does not mean anything; it is the inside of the house that matters. And the repairs to his house have to be addressed in the next year or so because it is completely worn out. Additionally, the neighboring property owners do not maintain their properties, which lowers the property values in his subdivision. *Dobbins testimony; Pet'r Ex. A.*

ANALYSIS

17. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting the property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. "True tax value" does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines "true tax value" as "market value in use," which it in turn defines as "[t]he market value-in-use of a property for its current

use, as reflected by the utility received by the owner or by a similar user, from the property.” MANUAL at 2.

18. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are appropriate for determining true tax value. MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property’s true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; *see also Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with the Uniform Standards of Professional Appraisal Practice (“USPAP”) is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the method used, a party must explain how their evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* For 2017, the valuation date was January 1, 2017. Ind. Code § 6-1.1-2-1.5(a).
19. As discussed above, the Assessor has the burden of proving that the property’s 2017 assessment is correct. The Assessor offered a sales comparison approach relying on the sales of three purportedly comparable properties. The sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable properties that have sold in the market.” MANUAL at 2.
20. To effectively use the sales comparison approach as evidence in a property tax appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not suffice. Instead, the proponent must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long*, 821 N.E.2d at 471. The proponent must similarly explain how relevant differences affect their values. *Id.*

21. Here, all three of the Assessor's comparable sales are ranch-style homes from the same subdivision as Dobbins' property. While Comparables 1 and 2 are sufficiently comparable to Dobbins' property, the Assessor admitted that Comparable 3 is not very comparable because it is more like a modular home. Thus, we find its inclusion detracts from the overall reliability of the Assessor's analysis.
22. The Assessor also failed to walk us through his adjustments in sufficient detail. Although the Assessor identified many relevant differences between his comparable sales and Dobbins' property, he failed to offer any support for the dollar adjustments he applied. And those adjustments were not minor tweaks—the gross adjustments ranged from 20% to 37.6%. As a result, we find the Assessor's adjustments to be unreliable. We also note that the Assessor's sales comparison approach produced a value conclusion of only \$222,200, which simply does not support the current assessment of \$244,000.
23. Given the significant problems discussed above, the Assessor's sales comparison approach is insufficiently reliable to be probative evidence of the property's market value-in-use. Because the Assessor did not offer any probative valuation evidence, he failed to make a prima facie case that the property's current assessment is correct. Dobbins is therefore entitled to have his 2017 assessment reduced to its 2016 value of \$189,800. Because Dobbins did not request a lower value, this ends our review.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we order Dobbins' 2017 assessment changed to \$189,800.

The Final Determination of the above-captioned matter is issued by the Board on the date first written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.